



explicitly, understands that to be loved by one parent the child must turn against the other parent.<sup>4</sup> The most severe methods of programming occur when the programmer instills distrust, fear or the belief that a parent is unable to properly care for the child by initiating judgmental, opinionated and negative comments or physical inspection and derogatory interrogation once the child returns to the custodial parent.<sup>5</sup> The child then interprets anything associated with the target parent as “wrong” or “unsafe”.<sup>6</sup>

Physical punishment may be added to this psychodramatic interplay if the child fails to comply with the programmer.<sup>7</sup> Any form of programming may be used alone, or in conjunction with the other techniques, including the ultimate detachment — kidnapping. The programmer may experience a backlash effect if the child is able to realize that the programmer has made specific attempts to intentionally and systematically sever the child’s relationship with the target parent.<sup>8</sup> While practitioners are told of such a reaction, it is seldom seen; and when experienced, it comes after years of abuse — at an untold cost of emotional destruction to the child. Even when practitioners admonish their clients not to engage in such destructive behavior, practitioners frequently lament their clients’ failure to follow attorney advice. A child who has not been successfully brainwashed frequently harbors anger and resentment toward both parents.<sup>9</sup> The child expresses anger

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sleep disorders, eating disorders, academic problems or radical fluctuations in academics, enuresis, confusion, daydreaming, drug abuse and other self-destructive behaviors, peer group problems, obsessive-compulsive behavior, motor tension, anxiety, psychosomatic disorders, damaged sexual identity, desire to live with neither parent, rescuer role, excessive guilt, and the desire to, or a retreat into fantasy.





exercising custody at the time of the child's removal or Tad consented to, or acquiesced in, the child's removal.<sup>56</sup>

a parent's relationship with his/her child is a constitutionally protected right, although not expressly set forth in the constitution, drawn from the "liberty" protected by the Due Process Clause of the Fifth Amendment.<sup>69</sup> In order to determine if the defendant

11. *Id.* at 113.

12. *Id.* at 115.

13. Arlene Browand Huber, Children at Risk in the Politics of Child Custody Suits: Acknowledging Their Needs for Nurture, 32 *U. Louisville J. Fam. L.* 33, 53 (1993).

14. Clawar & Rivlin, *supra note 1* at 38.

15. Judith S. Wallerstein, *The Child in the Divorcing Family*, 7 (1980).

16. Clawar & Rivlin, *supra note 1*, at 129.

17. ~~460 N.W.2d 39~~, 44 (Minn. 1990).

18. *In re Marriage of Kramer*, 570 N.E.2d 422, 431 (Ill. App. Ct. 1991); *Ingerwerson v. Voeckener*, 490 N.E.2d 1008, 1010 (Ill. App. Ct. 1986).

19. *Ford v. Ford*, 700 P.2d 65 (Idaho 1985); *McGraiv. Rosenbaum*, 308 N.Y.S.2d 181, 188 (N.Y. Sup. Ct. 1970), *aff'd*, 37 A.2d 917 (N.Y. App. Div. 1970).

20. *Rosenbergtv. Rosenberg*, 504 A.2d 350 (Pa. Super. Ct. 1986); *Marriage of Ciganovich*, 132 Cal. Rptr. 261 (Cal Ct. App. 1975).

21. See Juliet A. Cox, Note, Judicial Wandering Through A Legislative Maze: Application of the Uniform Child Custody Jurisdiction Act and the Parental Kidnapping Prevention Act to Child Custody Determinations, 58 *Mo. L. Rev.* 427 (1993).

22. See Sue T. Bentsch, Comment, Court-Sponsored Custody Mediation to Prevent Parental Kidnapping: A Disarmament Proposal, 18 *St. Mary's L.J.* 361 (1986).

23. Lawrence A. Goldman, Tortious Interference With Visitation Rights: A New and Important Remedy for Non-Custodial Parents, 20 *J. Marshall L. Rev.* 307, 313 (1986).

24. *Id.*

25. *Id.* at 315.

26. *Id.* at 311.

27. ~~460 N.W.2d 39~~, 45 (Minn. 1990).

28. *Business v. State*, 605 N.E.2d 277 (Ind. Ct. App. 1992) (upholding father's felony

1991); *Snarski v. Krincek*, 538 A.2d1348 (Pa. Super. Ct. 1988) (visitation interference was a factor in modification of custody proceeding).

32. Goldman, *supra note* 23, at 312-313.

N.Y.S.2d 93 (N.Y. App. Div. 1988); *McGrady v. McGrady*, 308 N.Y.S.2d 181, 182 (N.Y. Sup. Ct. 1970).

50. *Wood v. Wood*, 338 N.W.2d 123, 127-30 (Iowa 1983) (Wolle, J. dissenting).

51. Eve Kahao Gonzalez, Note, Intentional Interference with Visitation Rights: Is This a Tort?: *Owens v. Owens*, 47 *Louisiana L. Rev.* 217 (Sept. 1985); 338 N.W.2d at 127-30 (Wolle, J. dissenting).

52. *Minot v. Eckardt-Minot*

73. Richard A. Gardner, *Family Evaluation in Child Custody Mediation, Arbitration, and Litigation*, 496 (1989).

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